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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,619	09/28/2001	Ingmar Manfred Birgden	BRI-00051	5258
7590	08/26/2004		EXAMINER	
PHILIP R. WARN WARN, BURGESS & HOFFMANN, P.C. P.O. BOX 70098 ROCHESTER HILLS,, MI 48307			WOOD, KIMBERLY T	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 08/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/890,619	BIRGDEN ET AL. <i>J</i>
	<b>Examiner</b>	<b>Art Unit</b>
	Kimberly T. Wood	3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 May 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 36-84 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 58-70 and 78-83 is/are allowed.  
 6) Claim(s) 36-50,52-57,71,73-77 and 84 is/are rejected.  
 7) Claim(s) 51, 72, and 85 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

This is the third office action for serial number 09/890,619, entitled Vehicle External Mirror Assembly And Method Of Manufacture.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 36-50, 52-54, 57, 71, 73-75, and 84 are rejected under 35 U.S.C. 102(b) as being anticipated by Herr et al. (Herr) 3,448,553 in view Mittelhauser DT 2740189. Herr discloses a head () comprising a plurality of foam cores (19, 20, and 21), a mirror (9), a mount (9), a load diffuser (2 and 2), a front and rear shell (10 and 12), and internal chamber (where the from is at the edge of 11 and 13), the stiffness of the diffuser reduces from adjacent said mount. Herr discloses all of the limitations of the claimed invention except for the molded thin external plastic body shells. Mittelhauser teaches that it

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is known to have a front and rear plastic shell having an overlapping butt joint (near 4, and opposite to the side where 7, 8, 9, 12, and 21 are located). It would have been obvious to one having ordinary skill in the art to have modified Herr to have made the plastic shells by molding and to have the connection of the front shell to the rear shell being a joint as taught by Mittelhouse for the purpose of providing a more rigid and durable protective frame having a better means of attachment.

Claims 36, 40-43, 45-48, 52-54, 57, 73-75, and 84 are rejected under 35 U.S.C. 102(b) as being anticipated by Lang 6,382,804 in view Mittelhauser DT 2740189. Lang discloses a head (1), a foam core (2), a mirror (7), a mount (figure 3), a load diffuser (24), a frame 1. Lang discloses all of the limitations of the claimed invention except for the molded thin external plastic body shells. Mittelhauser teaches that it is known to have a front and rear plastic shell having an overlapping butt joint (near 4, 7, 8, 9, 12, and 21). It would have been obvious to one having ordinary skill in the art to have modified Lang to have made the plastic shells by molding and to have the connection of the front shell to the rear shell being a joint as taught by Mittelhause for the purpose of providing

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a more rigid and durable protective frame having a better means of attachment.

Claims 37-39, 44, 55, 56, 76, and 77 are rejected under 35 U.S.C. 102(b) as being anticipated by Lang 6,382,804 in view Mittelhauser DT 2740189 in Lang 6,390,634. Lang in view of Mittelhauser discloses all of the limitations of the claimed invention except for a mount having a pivot assembly receiving portion, a vehicle body abutment and connection portion, and a body comprising a second foam core. Lang 634 discloses a vehicle external mirror assembly comprising a head (15), a mirror (16), a mount (1 and 2), a foam core (20, column 4, lines 2ff), a load diffuser (6, 7, 8, 5, and 14), a front and rear shell (18 and 19), a second foam core (30), the stiffness of the diffuser reduces from adjacent said mount (the diffuser changes from two rods (6, 7, and 8) to one rod (14). It would have been obvious to have modified Lang in view of Mittelhause to have provided a mount having a pivot assembly receiving portion, a vehicle body abutment and connection portion, and a body comprising a second foam core as taught by Lang 634 for purpose of providing a more secure anchoring and supporting means that is rigid and durable.

***Allowable Subject Matter***

Claims 51, 72, and 85 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 58-70 and 78-83 allowed.

***Response to Arguments***

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the foam core bonding the internal surface of the shells in claims 46, 57, and 73) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The applicant argues that the claims do not disclose a foam core that anchors and supports the shell however, the foam does anchor and support the shell since the foam in conjunction with the diffuser anchors and supports the foam

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to the mount as does applicant's invention because without the diffuser the foam would not be able or anchor, support or move the mirror.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

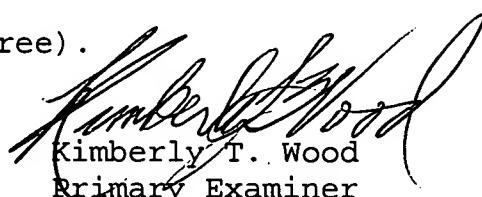
#### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly T. Wood whose telephone number is 703-308-0538. The examiner can normally be reached on Monday-Thursdays 7:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kimberly T. Wood  
Primary Examiner  
Art Unit 3632

August 23, 2004